

VZCZCXRO1306

RR RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR

DE RUEHVJ #2073/01 2711643

ZNY CCCCC ZZH

R 281643Z SEP 07

FM AMEMBASSY SARAJEVO

TO RUEHBW/AMEMBASSY BELGRADE 0456

RUEHVB/AMEMBASSY ZAGREB 0434

RUEHC/SECSTATE WASHDC 7138

INFO RUEHZN/EUROPEAN POLITICAL COLLECTIVE

RUEAIIA/CIA WASHINGTON DC

RHEFDIA/DIA WASHINGTON DC

RUFOAOA/USNIC SARAJEVO

RUEAWJA/DEPT OF JUSTICE WASHINGTON DC

C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 002073

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DEPARTMENT FOR EUR/SCE(STINCOMB) AND S/WCI(LAVINE);
BELGRADE PLEASE PASS TO OPDAT PODGORICA

E.O. 12958: DECL: 01/01/2016

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SUBJECT: BOSNIA - INITIAL MEETING OF WAR CRIMES RECOVERY
WORKING GROUP DISAPPOINTS

REF: A. SARAJEVO 1547

[B.](#) SARAJEVO 1403

[C.](#) SARAJEVO 1212

[D.](#) SARAJEVO 1068

Classified By: Michael J. Murphy. Reason 1.4(b) and (d)

[11.](#) (C) SUMMARY: The National Strategy for War Crimes Recovery Working Group met for the first time on September 19. The Working Group was established by the Ministry of Justice (MoJ) in the wake of the February International Court Justice (ICJ) verdict that genocide took place in and around Srebrenica. It was tasked with drafting an intra-governmental strategy for dealing with the effects of war crimes committed in Bosnia during the 1992-1995 conflict.

The strategy is to include a comprehensive set of measures, both judicial and non-judicial, that would facilitate justice and reconciliation. If adopted and implemented, it would diffuse the corrosive impact war crimes issues have on Bosnian politics and society. Unfortunately, the Working Group's inaugural session was disappointing. Leaders of Bosnian judicial institutions failed to focus on the task at hand. The participation of internationals seconded to the State Court offers was a bright spot, however. The secondees have produced a concept paper that they hope will guide future discussions. If the secondees' efforts to shape the strategy are backed by the international community, it could produce a much-needed national approach to war crimes recovery. END SUMMARY

Background

[12.](#) (C) The ICJ's February verdict that genocide took place in and around Srebrenica in July 1995 sparked a serious political crisis over the status of Srebrenica Municipality within the Republika Srpska (RS). The crisis refocused Bosnian and international community attention on war crimes issues. As part of our efforts to address the verdict's political fallout, we pressed Chief Prosecutor Marinko Jurcevic to develop and implement guidelines that would assist his office in prioritizing and selecting war crimes cases for investigation and prosecution. Jurcevic initially resisted, claiming that he could not do so until the Bosnian government had first established a national war crimes strategy (i.e., one that dealt with judicial and non-judicial issues associated with justice and reconciliation). The Office of the High Representative (OHR) and the international community supported Jurcevic's proposal, but made clear it was a

supplement to, not a substitute for, prosecution guidelines. After several months, the Chief Prosecutor is close to finalizing prosecution guidelines and the Working Group on War Crimes Recovery is beginning its work.

Jurcevic: Poorly Prepared

13. (C) On September 19, the National Strategy for War Crimes Recovery Working Group convened for the first time. Participants included the State Chief Prosecutor Jurcevic, State Court President Meddzida Kreso, Head of the High Judicial and Prosecutorial Council (HJPC) Branko Peric, Prosecutor's Office Deputy Registrar Toby Cadman as well as various other lower level officials. Representatives from OHR, OSCE, UNDP, and the U.S. Embassy also attended. The MoJ, which created the body and reportedly organized the meeting, failed to send a representative. Despite the group's mandate to develop a broad strategy for dealing with the effects of war crimes and crimes against humanity, Jurcevic and the MoJ failed to invite representatives from civil society, including representatives from victims groups, educators, or cultural and religious leaders. (Comment: Civil society participation is especially important when discussing issues such as alternatives to criminal prosecution and education. End Comment)

14. (C) In addition to failing to bring together the appropriate participants, the initial meeting was disorganized and poorly prepared. Jurcevic arrived with no agenda, materials for discussion, or data for working group members. Jurcevic also failed to compensate for the lack of preparation by providing any structured direction to the

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meeting. In his opening remarks, Jurcevic asked for participants' views about war crimes issues and claimed that he would not impose his own solutions on the group. He referred to the political situation several times, noting the need for consensus and political support for a National Strategy for War Crimes Recovery and suggesting that the group should seek Council of Ministers' approval for its report. In what some interpreted as a transparent effort to reduce his office's political exposure and workload, Jurcevic proposed that the Prosecutor's Office should handle a reduced number of war crimes cases and that an additional state institution should be created to handle the rest.

Peric: Strategy Needed

15. (C) Jurcevic's opening remarks had the effect of narrowly focusing discussion on the question of management of the large war crimes caseload rather than on broader questions associated with managing war crimes recovery. Peric accepted that the State Prosecutor could not possibly resolve all of the war crimes cases and called for a prosecution strategy to determine the most serious cases for immediate disposition. (Note: In other words, Peric called for precisely the type of prosecution guidelines that the Chief Prosecutor's Office is already working on, which were not supposed to be the subject of the recovery working group. End Note) Peric underscored that time is running out, as both witnesses and perpetrators are dying. He also emphasized the importance of informing the public about what is realistically possible regarding justice and war crimes cases. Peric agreed with Jurcevic that a National Strategy for War Crimes Recovery must be discussed at the political level and reviewed by Parliament.

Kreso: Frustration Over Numbers

16. (C) Judge Kreso expressed concern about the State Court's limited resources. She was openly critical of the poor planning for the working group as well as the Chief Prosecutor's failure to develop war crimes prosecution

guidelines and to compile statistics on war crimes investigations and case files. This lack of data, Kreso said, undermines the Court's efforts to develop a strategy for managing cases. (Note: Jurcevic regularly claims that there are more than 12,000 potential war crimes cases, but the Chief Prosecutor's Office has made no attempt to compile an inventory of cases. Most independent observers, including international prosecutors seconded to the State Court, believe the potential case load, though large and probably unmanageable given the Court's current resources, is much smaller. End Note)

Cadman: Wake-Up Call

¶7. (C) After initial interventions by Bosnian judicial officials, Cadman sought to focus discussion on the Working Group's broader mandate. Cadman stated bluntly that there was no way to process the large number of war crimes cases and that the Prosecutor's Office must determine which cases to try and which to refer to entity courts. He added that the overall goal of the group must be a national strategy that balances restorative and retributive justice. This involved more than ensuring that the criminal justice system played its proper role on war crimes (and was structured to do so). It could include, *inter alia*, exploring alternatives to criminal prosecution, incorporating war crimes issues into school curricula, providing adequate support to the victims of war crimes as well as to witnesses in war crimes trials, and establishing a national War Crimes Documentation Center or a Center for the Study of Post-Conflict Recovery. Cadman promised to provide the working group with a concept paper containing these and other ideas, which they could then use to frame their future discussions.

Comment

¶8. (C) As expected, the inaugural meeting of the Working Group accomplished nothing substantive. Jurcevic was poorly prepared, and Jurcevic's Bosnian colleagues preferred to

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focus their interventions on telling him how the Office of the Prosecutor could better do its job. The tensions among Jurcevic, Kreso, and Peric could derail efforts to draft a National Strategy for War Crimes Recovery. Nevertheless, all is not lost. There was consensus that Bosnia faces a serious problem regarding war crimes management and a national strategy is necessary to address it. While Jurcevic is not likely to drive its development, his staff, particularly the international secondees, appear to have a keen understanding of what a strategy must contain and what must be done to secure it. With the active support of the international community, the Working Group could produce the much needed national approach.

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